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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,134	07/09/2003	Joel Weichelt	44.002	1254
7590	01/16/2007		EXAMINER	
Michael J Gratz			MUROMOTO JR, ROBERT H	
Boyle Fredrickson Newholm Stein & Gratz SC			ART UNIT	PAPER NUMBER
250 Plaza Suite 1030			3765	
250 East Wisconsin Avenue				
Milwaukee, WI 53202				
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/616,134	WEICHELT, JOEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert H. Muromoto, Jr.	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 July 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 1-20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

The claims filed 7/5/05 are objected to because:

(1) The amendment filed on 7/5/05 failed to comply with 37 CFR 1.173(b)(2) and (d). An amendment of a “**new claim**” (i.e., a claim not found in the patent, that was previously presented in the reissue application) must be done by presenting the amended “new claim” containing the amendatory material, and completely underlining the claim. The presentation cannot contain any bracketing or other indication of what was in the previous version of the claim. This is because all changes in the reissue are made vis- à-vis the original patent, and not in comparison to the prior amendment. Although the presentation of the amended claim does not contain any indication of what is changed from the previous version of the claim, applicant must point out what is changed in the “Remarks” portion of the amendment and no new matter is permitted.

In addition, any amendment to the original claim 1 should also be made in reference to the original patent, and not to the previous amendment. The change must be shown in brackets for deletion or underlining for addition. See MPEP 1453.

The applicant also must correct the assignee ownership consent and oath/declaration as follows.

### Assignee ownership and consent:

(1) The assignee's written consent is not shown in eDan. Please request assignee to submit a copy if they have filed one previously. If not, they need to supply the consent as required by 37 CFR 1.172.

(2) Assignee is also required to establish their ownership interest in the patent to comply with the provisions of 37 CFR 3.73(b). Such ownership interest is not shown in the file. Please request a copy.

### Oath/Declaration

(1) Any reissue error correction made after the most recent declaration was filed will require the Applicant to submit a “catch-up” supplemental oath or declaration prior to allowance; see the Reissue Checklist, page 5, item 21 (h). Any other reissue error

corrected which is not covered by an oath or declaration, i.e. any 35 USC 251 error corrected after the filing of all oaths and declarations currently in the reissue application, applicants MUST submit a "catch-up" supplemental oath or declaration prior to allowance stating "*Every error in the patent which was corrected in the present reissue application, and which is not covered by the prior oath(s) and /or declaration(s) submitted in this application, arose without any deceptive intention on the part of the applicant.*" (37CFR 1.175(b)(1), or language equivalent thereto. See MPEP 1444 for handling supplemental oaths/declarations.

Once these items are corrected the scope of the claims appears to be allowable.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Muromoto, Jr. whose telephone number is 571-272-4991. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bobby Muromoto  
Patent examiner  
1/9/2007

A handwritten signature in black ink, appearing to read "Bobby Muromoto". The signature is fluid and cursive, with a large, stylized 'B' on the left and a more compact 'Muromoto' to the right.